

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RONALD A. POLK and
JO E. YOUNG,

Plaintiffs,

v.

Case Number 04-10368-BC
Honorable David M. Lawson

MARK J. GEARTNER, KARL KRAUS,
GARY POLEGA, and STEVEN ALLEN

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Presently before the Court is the report issued by United States Magistrate Judge Charles E. Binder pursuant to an order of reference recommending that the complaint in this case be dismissed *sua sponte* because the claims alleged are devoid of merit. Although the magistrate judge's report, filed on May 13, 2005, explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, the plaintiffs did not file any objections. The plaintiffs' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the plaintiffs' claims. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 28] is **ADOPTED**, and the plaintiffs' complaint is **DISMISSED** without prejudice.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: June 21, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 21, 2005.

s/Tracy A. Jacobs

TRACY A. JACOBS